

109TH CONGRESS
1ST SESSION

H. R. 3084

To direct the Secretary of Commerce to issue regulations requiring testing for steroids and other performance-enhancing substances for certain sports associations engaged in interstate commerce.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2005

Mr. STEARNS (for himself, Ms. SCHAKOWSKY, Mr. BASS, Mr. UPTON, Mrs. BLACKBURN, Mr. GENE GREEN of Texas, Mr. MARKEY, Mr. MURPHY, and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Commerce to issue regulations requiring testing for steroids and other performance-enhancing substances for certain sports associations engaged in interstate commerce.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drug Free Sports
5 Act”.

1 **SEC. 2. DEFINITIONS.**

2 As used in this Act—

3 (1) the term “Secretary” refers to the Sec-
4 retary of Commerce; and

5 (2) the term “professional sports associations”
6 means Major League Baseball, the National Basket-
7 ball Association, the National Football League, the
8 National Hockey League, Major League Soccer, the
9 Arena Football League, and any other league or as-
10 sociation that organizes professional athletic com-
11 petitions as the Secretary may determine.

12 **SEC. 3. RULES REQUIRING MANDATORY TESTING FOR ATH-**
13 **LETES.**

14 (a) RULEMAKING.—Not later than 270 days after the
15 date of enactment of this Act, the Secretary shall issue
16 regulations requiring professional sports associations oper-
17 ating in interstate commerce to adopt and enforce policies
18 and procedures for testing athletes who participate in their
19 respective associations for the use of performance-enhanc-
20 ing substances. Such policies and procedures shall, at min-
21 imum, include the following:

22 (1) TIMING AND FREQUENCY OF RANDOM TEST-
23 ING.—Each athlete shall be tested a minimum of 5
24 times each year that such athlete is participating in
25 the activities organized by the professional sports as-
26 sociation. Tests shall be conducted at random inter-

1 vals throughout the entire year, during both the sea-
2 son of play and the off-season, and the athlete shall
3 not be notified in advance of the test.

4 (2) APPLICABLE SUBSTANCES.—The Secretary,
5 in consultation with the Director of the National In-
6 stitute on Drug Abuse, shall, by rule, prescribe the
7 substances for which each athlete shall be tested,
8 which shall include—

9 (A) substances that—

10 (i) are determined by the World Anti-
11 Doping Agency to be prohibited sub-
12 stances; and

13 (ii) the Secretary determines to be
14 performance-enhancing substances for any
15 particular sport, or substances whose pur-
16 pose is to conceal the presence of perform-
17 ance-enhancing substances in the body,
18 and for which testing is reasonable and
19 practicable; and

20 (B) such additional substances that the
21 Secretary may determine to be performance-en-
22 hancing substances for any particular sport, or
23 substances whose purpose is to conceal the
24 presence of performance-enhancing substances

1 in the body, and for which testing is reasonable
2 and practicable.

3 (3) THERAPEUTIC AND MEDICAL USE EXEMP-
4 TIONS.—The Secretary, in consultation with the Di-
5 rector of the National Institute on Drug Abuse, shall
6 establish criteria by which professional sports asso-
7 ciations, after consultation with the athletes who
8 participate in the activities of such professional
9 sports association (or the representatives of such
10 athletes), may provide an athlete with an exemption
11 for a particular substance, prior to or after any drug
12 test, if such substance has a legitimate medical or
13 therapeutic use, and if such use is for a documented
14 medical condition of such athlete.

15 (4) METHOD OF TESTING AND ANALYSIS.—The
16 Secretary, in consultation with the Director of the
17 National Institute on Drug Abuse, shall establish
18 criteria whereby tests shall be administered by an
19 independent party not affiliated with the profes-
20 sional sports association.

21 (5) PENALTIES.—Subject to the determination
22 made pursuant to an appeal as described in para-
23 graph (6), a positive test shall result in the following
24 penalties:

25 (A) SUSPENSION.—

1 (i) An athlete who tests positive shall
2 be suspended from participation in the pro-
3 fessional sports association for a period not
4 less than $\frac{1}{2}$ of a season of play, including
5 suspension from the number of games con-
6 stituting $\frac{1}{2}$ of a season of play.

7 (ii) An athlete who tests positive, hav-
8 ing once previously violated the policies
9 concerning prohibited substances, shall be
10 suspended from participation in the profes-
11 sional sports association for a period not
12 less than an entire season of play, includ-
13 ing suspension from the number of games
14 constituting a full season of play.

15 (iii) An athlete who tests positive,
16 having twice previously violated the policies
17 concerning prohibited substances, shall be
18 permanently suspended from participation
19 in the professional sports association.

20 All suspensions shall include loss of pay for the
21 period of suspension.

22 (B) DISCLOSURE.—The name of any ath-
23 lete having a positive test result resulting in
24 suspension shall be disclosed to the public.

1 (C) EXCEPTIONAL CIRCUMSTANCES.—The
2 Secretary shall establish criteria by which pro-
3 fessional sports associations may reduce the pe-
4 riod of suspension for an athlete who has tested
5 positive for a prohibited substance but who es-
6 tablishes that he or she bears no fault or neg-
7 ligence or no significant fault or negligence for
8 the violation. In establishing such criteria, the
9 Secretary shall consider the policies and prac-
10 tices of the World Anti-Doping Agency regard-
11 ing reduced penalties for exceptional cir-
12 cumstances. Such criteria shall not require a
13 professional sports association to adopt a policy
14 providing for reductions in penalties for any cir-
15 cumstances.

16 (6) APPEALS PROCESS.—

17 (A) HEARING AND FINAL ADJUDICA-
18 TION.—An athlete who tests positive and is
19 subject to penalty under paragraph (5) shall be
20 afforded an opportunity for a prompt hearing
21 and a right to appeal. Such athlete shall file an
22 appeal with the professional sports association
23 within 5 business days after learning of the
24 positive test. The association shall hold a hear-
25 ing before an arbiter established under subpara-

graph (B) and such arbiter shall reach a final adjudication not later than 45 days after receiving notice of the appeal. The penalties specified in paragraph (5) shall be stayed pending an appeal and final adjudication.

(B) ARBITER.—The arbiter of the appeals process described in subparagraph (A) shall be agreed upon mutually by the professional sports association and the athletes who participate in the activities of such professional sports association (or the representatives of such athletes), and shall be approved by the Secretary, and such approval shall not be unreasonably withheld.

(b) CONSULTATION.—In prescribing regulations under this section, the Secretary may consult with anti-doping authorities, medical experts, and professional sports associations.

SEC. 4. NONCOMPLIANCE.

Beginning 1 year after the date on which the final rules required by section 3 are issued, the Secretary may fine any professional sports association that fails to adopt and enforce testing policies and procedures consistent with such regulations. An initial fine for failing to adopt or enforce such policies and procedures under this Act shall be

1 \$5,000,000 and may be increased by the Secretary by
2 \$1,000,000 for each day of noncompliance. The Secretary
3 may reduce the fines specified in this section upon finding
4 such fines to be unduly burdensome on a professional
5 sports association.

6 **SEC. 5. REPORTS.**

7 (a) REPORT ON EFFECTIVENESS OF REGULA-
8 TIONS.—Not later than 2 years after the date of enact-
9 ment of this Act and every 2 years thereafter, the Sec-
10 retary shall transmit to the Committee on Energy and
11 Commerce of the House of Representatives and the Com-
12 mittee on Commerce, Science, and Transportation of the
13 Senate, a report describing the effectiveness of the regula-
14 tions prescribed pursuant to this Act, the degree to which
15 professional sports associations have complied with such
16 regulations, and any significant examples of noncompli-
17 ance.

18 (b) STUDY ON COLLEGE AND SECONDARY SCHOOL
19 TESTING POLICIES AND PROCEDURES.—

20 (1) STUDY.—The Comptroller General shall
21 conduct a study on the testing policies and practices
22 (and their implementation) for performance-enhanc-
23 ing substances for athletes at colleges and secondary
24 schools. The study shall examine the prohibited sub-
25 stance policies and testing procedures of—

- 1 (A) intercollegiate athletic associations;
- 2 (B) college and university athletic depart-
- 3 ments; and
- 4 (C) secondary schools and State and re-
- 5 gional interscholastic athletic associations.

6 The study shall also include an analysis of the best
7 available estimates for both licit and illicit use of an-
8 abolic steroids and human growth hormones by such
9 athletes.

10 (2) REPORT.—Not later than 1 year after the
11 date of enactment of this Act, the Comptroller Gen-
12 eral shall transmit a report to the Committee on En-
13 ergy and Commerce of the House of Representatives
14 and the Committee on Commerce, Science, and
15 Transportation of the Senate. The report shall as-
16 sess the adequacy of such testing policies and proce-
17 dures in detecting and preventing the use of per-
18 formance-enhancing substances, and shall include
19 any recommendations to Congress regarding expand-
20 ing the application of the regulations issued pursu-
21 ant to this Act to such intercollegiate and inter-
22 scholastic athletic associations.

23 **SEC. 6. RULES OF CONSTRUCTION.**

24 (a) PRE-EXISTING POLICIES.—Nothing in this Act
25 shall be construed to prohibit a professional sports asso-

1 ciation from continuing to enforce policies and procedures
2 governing the use of performance-enhancing substances
3 that were in effect on the date of enactment of this Act
4 until such time as such professional sports associations
5 adopt policies and procedures consistent with the rules
6 issued under section 3.

7 (b) MORE STRINGENT POLICIES.—Nothing in this
8 Act shall be construed to prohibit a professional sports
9 association and its athletes (or the representatives of its
10 athletes) from negotiating and agreeing upon policies and
11 procedures governing the use and testing of performance-
12 enhancing substances that are more stringent than those
13 required by this Act.

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